

ORDINANCE No. 2008-20-156

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, ESTABLISHING A PREFERENCE IN PURCHASING AND CONTRACTING FOR BUSINESSES THAT MAKE MONETARY CONTRIBUTIONS TO MIAMI-DADE COUNTY PUBLIC SCHOOLS LOCATED WITHIN THE CITY OF MIAMI GARDENS; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City annually spends significant amounts in purchasing personal property, materials and contractual services in the construction and improvements to real property, and

WHEREAS, the dollars used in making these purchases are derived in large part from taxes and fees imposed on local businesses and the City Council has determined the funds generated in the community to the extent possible should be placed back into the local community to assist with education on the primary and secondary level, and

WHEREAS, the City Council has determined it is in the best interest of the City and its citizens to give a preference to businesses in the award of contracts when the business has made a monetary contribution(s) of a certain amount to a public school located in Miami Gardens,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. ORDINANCE: The City Council of the City of Miami Gardens hereby establishes a preference in purchasing and contracting for businesses that have made a monetary contribution of a certain level to a public school located in Miami Gardens:

(a) *Findings of fact.* The city annually spends significant amounts in purchasing personal property, materials, and contractual services in the construction and improvements to real property. The dollars used in making these purchases are derived in large part from taxes and fees imposed on local businesses and the city council has determined the funds generated in the community to the extent possible should be placed back into the local community to aid the citizenry by assisting school-age children within the City. Therefore, the city council has determined it is in the best interest of the city and its citizens to give a preference to businesses in the award of contracts where the business has previously made monetary contributions of a certain level to public schools located within Miami Gardens.

(b) *Purpose.* This policy has been developed to encourage businesses to contribute funds to public schools located within the City of Miami Gardens.

(c) *Scope and applicability.* This policy applies to all businesses interested in participating in the city procurement activities. Eligible businesses must demonstrate that they have contributed the requisite funds to public schools located within the City of Miami Gardens.

(d) *Policy statement.* In the purchase or letting of contracts for procurement of personal property, materials, certain contractual services, and construction of improvements to real property or to existing structures, the city council or other purchasing authority, may give a preference to businesses that provide financial support to an eligible school.

(e) *Exceptions.* The preference set forth in this article shall not apply to any of the following purchases or contracts:

(1) Purchases or contracts with an estimated value of \$25,000.00 or less;

(2) Purchases exempted by law, rule, policy or procedure from the requirements for competitive solicitation/bid;

(3) Purchases or contracts which are funded, in whole or in part by a governmental entity and the laws, regulations, or policies governing such funding which prohibit application of that preference; or

(4) Purchases made or contracts let under emergency procurement situations as such are defined in the City's Procurement Policies and Procedures or as determined by City Council.

(5) Purchases that are made through purchasing cooperatives or through the use of existing contracts with other governmental jurisdictions, the state of Florida or federal agencies.

(6) Any purchases that are exempt from the purchasing requirements in accordance with the City's Purchasing Ordinance.

(f) *Procedures.* All businesses applying for procurement preference under this policy shall submit a letter to the principal of the school that is to receive the donated funds. Said letter shall specify that the donated funds must be spent for the particular school to which the donation is made, and shall specify the specific purpose for the donation. In addition, the business shall obtain a commitment letter from the principal. The commitment letter along with the letter submitted by the business to the school, shall be submitted at the time of submittal of the bid or request for proposal/qualifications. The commitment letter shall delineate the amount of the monetary contribution and the specific purpose for the donation. The commitment letter must be notarized. Contributions must be made within the previous 12 months prior to the opening date of the interested bid.

(1) Preferences given under this policy shall adhere to the following:

TABLE INSET:

| Bid Levels | Donation Value | Bid Preference | RFP Bonus Points * |
|------------|----------------|----------------|--------------------|
| 25,001-- | 2,500 | 5% | 5 points or 5% |

| | | | |
|----------------------|--------|----|---------------------|
| 49,999 | | | of Total |
| | 2,000 | 4% | 4 or 4% |
| | 1,500 | 3% | 3 or 3% |
| | 1,000 | 2% | 2 or 2% |
| | 500 | 1% | 1 or 1% |
| 50,000-- 99,999 | 5,000 | 5% | 5 or 5% of Total |
| | 4,000 | 4% | 4 or 4% |
| | 3,000 | 3% | 3 or 3% |
| | 2,000 | 2% | 2 or 2% |
| | 1,000 | 1% | 1 or 1% |
| 100,000-- 249,999 | 10,000 | 5% | 5 or 5% of Total |
| | 8,000 | 4% | 4 or 4% |
| | 6,000 | 3% | 3 or 3% |
| | 4,000 | 2% | 2 or 2% |
| | 2,000 | 1% | 1 or 1% |
| 250,000-- 499,999 | 25,000 | 5% | 5 or 5% of Total |
| | 20,000 | 4% | 2 or 2% |
| | 15,000 | 3% | 1 or 1% |
| | 10,000 | 2% | 2 or 2% |
| | 5,000 | 1% | 1 or 1% |
| Over 500,000 | 50,000 | 5% | 5 or 5% of Total |

* Whichever is greater

(2) Total bid price shall include not only the base bid price but also all alterations to that base bid price resulting from alternates which were both part of the bid and actually purchased or awarded by the city council.

(3) Competitive Bid: When a responsive, responsible bidder submits the lowest price bid, and the bid submitted by one or more responsive, responsible, businesses which are

qualified per the charitable contribution preference, is within the preference amount to which they are entitled per the table in (f)(1) above, then such bidder shall have the opportunity to submit, within five (5) working days of the bid opening, a best and final bid equal to or lower than the amount of the low bid previously submitted by the actual lowest bidder.

(g) In the event of an identical tied bid or proposal, after the preference is applied, the bidder making the larger contribution to a school will be afforded the first opportunity to meet or exceed the designated low bid. In the event of a continuing tie, preference will be given to local vendor. If none of the vendors are local or if two or more vendors are local and a tie still remains, for those contracts that are to be awarded by the City Manager, the City Manager shall determine to whom the bid will be awarded. For those contracts to be awarded by the City Council, the City Council shall determine to whom the bid will be awarded.

SECTION 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the

use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

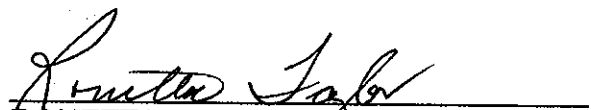
SECTION 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 14TH DAY OF MAY 2008.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 28TH DAY OF MAY, 2008.


SHIRLEY GIBSON, MAYOR

ATTEST:


RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.
City Attorney

SPONSORED BY: COUNCILMAN OLIVER GILBERT III

MOVED BY: Councilwoman Pritchett
SECOND BY: Councilman Gilbert

VOTE: 7-0

| | | |
|--------------------------------|----------------|----------|
| Mayor Shirley Gibson | <u>X</u> (Yes) | ___ (No) |
| Vice Mayor Barbara Watson | <u>X</u> (Yes) | ___ (No) |
| Councilman Melvin L. Bratton | <u>X</u> (Yes) | ___ (No) |
| Councilman Aaron Campbell | <u>X</u> (Yes) | ___ (No) |
| Councilman Oliver Gilbert, III | <u>X</u> (Yes) | ___ (No) |
| Councilwoman Sharon Pritchett | <u>X</u> (Yes) | ___ (No) |
| Councilman André Williams | <u>X</u> (Yes) | ___ (No) |

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